for attachment for contempt. If the right to the fine existing in the shape of a judgment, is a vested private right in the party to whom it was to be paid, the court had no right to discharge it: *In re Mullee*, 7 Blatch. 23.

The proceeding for contempt is sometimes both civil and criminal. In South Carolina a sheriff was attached for contempt in not paying over money, or neglecting to collect it on execution. It was held to be a civil process, so far as its object was to redress the party procuring it, but criminal, as being designed to punish the sheriff for neglect of duty. Though the contempt would generally be purged, only when the injured party was put in as good a position as if the sheriff had done his duty, the court held that he might be discharged on purging himself of contempt and showing inability to pay the money: *Ex parte Thurmond*, 1 Bailey 605.

The enforcement of civil rights and remedies, by means of proceeding for contempt, is forbidden by the statutes of Arkansas.

CHARLES CHAUNCEY.

(*To be continued.*)

RECENT ENGLISH DECISIONS.

Court of Appeal.

SIMM v. ANGLO-AMERICAN TELEGRAPH COMPANY.

ANGLO-AMERICAN TELEGRAPH COMPANY v. SPURLING.

A transferee of stock in a company does not acquire a right thereto by estoppel, as between him and the company, by the mere fact of registration of the transfer and the issue of the certificate. Nor is the company under any duty towards him to make any inquiry of the transferor before issuing the certificate.

B. & Co. purchased upon the stock exchange 5000*l*. stock in the defendant company. A transfer of the stock purporting to be executed by C., the true owner, was lodged with the company by S. & Co., the nominees of B. & Co. The company, after sending the usual notice to C., registered S. & Co. as holders. B. & Co., then, to secure advances, obtained a transfer of the stock to the plaintiffs, who were in like manner registered as owners, the certificate being issued to them by the company. The advances being paid off, the plaintiffs continued to hold the stock as trustees for B. & Co. It was afterwards discovered that the transfer from C. was a forgery, and the company thereupon replaced C. upon the register, and refused to pay dividends to the plaintiffs or to acknowledge their title to the stock. *Held* (reversing the judgment of LINDLEY, J.), that B. & Co. being the real plaintiffs, the defendants were not estopped from denying the validity of the transfer to S. & Co.

THIS was an appeal from a judgment of LINDLEY, J., given at the trial, without a jury, at Guildhall. The action was brought under the following circumstances.

In November 1876, a Mr. Coates was the registered owner of 5000*l.* stock of the defendant company. Phillips, a confidential clerk of Coates, having obtained possession of the stock certificate, instructed one Thompson, a jobber on the stock exchange, to sell the stock in question, which was eventually purchased by Burge & Co., who, being desirous of raising a loan from Spurling & Skinner, passed the name of the latter firm as buyers of the stock, it being intended that the stock should be given as security for the loan. Phillips thereupon forged a transfer of the stock from Coates to Spurling & Skinner.

On the 2d of December, Spurling & Skinner, at the request of Burge & Co., left the transfer and the stock certificate at the office of the defendant company for registration. On the same day the company wrote to Mr. Coates as follows: "I beg to inform you that a transfer purporting to be signed by you, transferring stock in this company as follows, viz., 5000*l.* to Percival Spurling and another, has been lodged at this office, and if I do not hear from you by return, I shall assume the same to be correct. (Signed), John Grant, secretary."

No reply being received, the company on the 6th of December, duly registered the transfer. Before the time for delivering out the certificate arrived, however, viz., on the 9th of December, a transfer of the stock in question from Spurling & Skinner to Simm & Ingelow (who were trustees of the National Bank), was lodged with the company by Burge & Co., they having obtained a transfer from Spurling & Skinner for a nominal consideration. Thereupon the usual course was followed, and a notice in similar terms was sent by the company to Spurling & Skinner. No answer being received, the registration in the names of Simm & Ingelow followed, and the certificate was delivered out to them. Burge & Co. had deposited the stock with the National Bank by way of security for advances received by them. The company treated Simm & Ingelow as owners of the stock, and paid to them the dividends due upon the same up to the end of the year 1877. Burge & Co. having repaid to the National Bank the sums advanced upon the security of the stock, it remained standing in the names of Simm & Ingelow, but they had no beneficial interest in it, being bare

trustees for Burge & Co. The forgery having been discovered, the company refused to pay the dividend due in February 1878, to Simm & Ingelow, replaced Coates upon the register, and refused to acknowledge the title of Simm & Ingelow to the stock. Thereupon this action was brought in the names of Simm & Ingelow for damages for wrongfully representing Spurling & Skinner to be the registered holders of the stock, and for the sum of 5000*l.* alleged to be the purchase-money of the stock, and also for the amount of dividends due. And the company brought a cross-action against Spurling & Skinner for breach of warranty with respect to the forged transfer.

With the consent of all parties Burge & Co. were added as plaintiffs in the first action and as defendants in the second action, it being admitted that they were the real parties intended, and that Simm & Ingelow and Spurling & Skinner were only the nominees.

LINDLEY, J., directed judgment against the company in both actions, and the company now appealed.

Watkin Williams, Q. C., *H. Davey*, Q. C., and *Findlay*, for the company.

Benjamin, Q. C., and *Bush Cooper*, for Simm & Ingelow.

Day, Q. C., and *Channel*, for Spurling & Skinner.

The following authorities were cited in the arguments: *In re Bahia and San Francisco Railroad Co.*, L. R., 3 Q. B. 584; *Hart* v. *Frontino Company*, L. R., 5 Ex. 111; *Knights* v. *Wiffen*, L. R., 5 Q. B. 660.

BRAMWELL, L. J.—I have come to the conclusion that this judgment cannot be supported, and that it should be entered for the company. The real plaintiffs are Burge & Co., Simm & Ingelow, though inserted as plaintiffs on the record, having no interest in the matter, being bare trustees for them. The case, therefore, must be dealt with as if Burge & Co. were the sole plaintiffs. Now Burge & Co. can have no greater right against the Telegraph Company than they would have if they were claiming under the forged transfer which purported to be direct from Coates, for the fact that Burge & Co. procured Spurling & Skinner to become the trans-

ferees, and to be registered as holders of the stock, and that Spurling & Skinner then transferred to Simm & Ingelow, whose names were then put upon the register, can give Burge & Co. no greater right than if these steps had not been taken. We may treat the case, therefore, as if Burge & Co. had taken the forged transfer. Would they then have had the right they now claim, viz., that the defendants should be estopped from denying their title?

The effect of estoppel is that the person said to be estopped is compelled to act upon the assumption of the existence of a state of facts which does not in truth exist. If the defendants here are estopped from denying the plaintiff's title, they cannot deny the existence of those facts which are necessary to make Simm & Ingelow holders of the stock, and these are, that the persons who transferred to them must have been holders of the stock, and have transferred that stock to the plaintiffs, and that the company must have accepted the plaintiffs as transferees. Now, there is no doubt that the plaintiffs were accepted as transferees by the company, and the company do not pretend the contrary, also that the company are estopped from denying that Coates was a holder; but what is there to make them estopped from denying that he executed a transfer? The plaintiffs take an instrument to the defendants which purports to be a transfer from Coates to them, and upon that they ask the defendants to put them upon the register as holders of the stock. This the defendants do, but why on this account should they be estopped? All they have done is to accept the invitation of Burge & Co. to put them on the register. It seems to me more reasonable to say that Burge & Co. would be estopped.

Now, Mr. *Benjamin* contended that it was the duty of the defendants to make inquiries, and that by putting the plaintiffs on the register and giving them the certificate, they affirm that the transfer is correct. I entirely dissent from that proposition. This system of companies making inquiries before putting the names of purchasers of stock on the register is comparatively modern, and is a very reasonable one, but it is for their own benefit only; for as between themselves and the transferees of Burge & Co. the company, having given Burge & Co. a certificate, would be estopped from denying their title to the stock, and therefore for their own protection they ought to make inquiry; but I do not see why

because they do so they should be precluded in this action from saying that the transfer presented by Burge & Co. was a forgery.

The three cases referred to in the argument in which the estoppel did arise are all distinguishable from the present case. In *Knights* v. *Wiffen*, the defendant had in effect said to the plaintiff. "I hold the quarters of barley separate from the rest and at your disposal," and the Queen's Bench held that he was estopped from denying that the property in the goods had passed to the plaintiff. In that case the plaintiff had not made any statement to the defendant such as Burge & Co. have made here. In the *Bahia case* the transferee had acted on the faith of certificates given to a prior holder, and the company having given these certificates, and intending them to be acted upon, were held to be bound by them on the principle of *Pickard* v. *Sears*, 6 Ad. & E. 469. In *Hart* v. *Frontino Company* there was no incorrect representation of fact made by the plaintiff. He had got a bona fide transfer from a person who was on the register of the company as shareholder. He took this instrument to the company and requested them to accept him as shareholder. This they did, and it was held that they were afterwards estopped from denying his title to the shares. There was in that instance no conduct on the part of the plaintiff that induced the company to act as they did. I am not sure, in giving judgment in that case, I fully appreciated the effect of the certificates given by the company.

In my opinion it is unnecessary to consider in this case whether any damage has occurred to the plaintiffs. Even if it could be shown that Burge & Co. have suffered damage in consequence of what the company have done, it would not, I think, make any difference. It would be their misfortune.

BRETT, L. J.—I am also of opinion that this appeal must be allowed. We have to consider whether the judgment of Mr. Justice LINDLEY can be supported upon the grounds he stated or upon any other grounds.

Now, I do not think it can be supported on the grounds stated by him, which were, that when Burge & Co., as transferees of stock from Coates, mortgaged their stock to Simm & Ingelow as trustees for the bank, they were in possession of certificates from the company which asserted that they were the holders of the stock so mortgaged, and that therefore, as between themselves and Simm & Ingelow or the bank, the company were estopped from denying

the title of Burge & Co. to the stock. Now, it cannot be doubted, on the authority of the *Bahia case*, the giving of this certificate did raise this estoppel between Simm & Ingelow and the company, and Mr. Justice LINDLEY held that therefore this gave Simm & Ingelow a legal right by estoppel to the stock, and that because they, being mortgagees with a legal title, became, when the mortgage was paid off, trustees for Burge & Co., Burge & Co. could rest upon the same title that Simm & Ingelow had, and that therefore the company were also estopped as against them. But in this I think he was wrong. The true interpretation of the phrase "legal title by estoppel" is, that the estoppel is equally recognised at law and in equity. But the estoppel gives no right to the subject-matter; it merely assumes that the real state of facts is the contrary of that which the other party is estopped from denying. I do not speak of estoppel by deed, which I take to be a phrase in reference to the interpretation of the deed, but I speak of such estoppels as arise out of the ordinary transactions of daily life: these have no effect on the reality of existing facts. For instance, suppose a person in possession of certain goods to be in such a position as to be estopped from denying that he is under a contract to deliver those goods although there is no such contract; he may be bound in an action to act as if there were such a contract, and to deliver up the goods. But suppose the goods are not really in his possession, and that he is estopped from denying the contract, and also the fact that the goods are in his possession. Then in the action for the delivery of the goods he could not be made to deliver them, but to pay damages. So the estoppel has no effect on the reality of the facts, but merely gives a cause of action. Thus, in this case there was an estoppel against the company for a time in favor of Simm & Ingelow, which was raised by their having given certificates that Burge & Co. were owners of the stock, upon the faith of which certificates Simm & Ingelow had acted. If Simm & Ingelow could have shown that they had sustained any damage by reason of their having so acted on the faith of these certificates, they could have maintained an action against the company, in which the company would have been estopped from denying the truth of the certificates, but when once the mortgage was paid off there was no damage, and from that time no right of action by reason of the estoppel. The only persons who could have maintained the action were Simm & Ingelow. They had no legal title,

but a right of action only, therefore, when they could no longer maintain the action they could not transfer the right, so that Burge & Co. cannot maintain the action on this ground.

Nor can they do so on other grounds. Burge & Co. are the real plaintiffs, and there can be no estoppel in their favor against the defendants: first, because there was no representation to the effect relied on made by the defendants to Burge & Co.; and next, because even if such representation had been made, no alteration in the position of Burge & Co. was caused by it. Burge & Co. acted on the belief that they had bought the stock through a broker on the stock exchange, and received a transfer which they supposed came from Coates, and they with it received a certificate, issued by the company, that Coates was the holder of the stock; they thereupon applied to the company to place them on the register; the company acted in the usual manner, and wrote a letter to Coates, and, upon receiving no reply, put the names on the register, and issued a certificate, and it is the issuing of this certificate which is the act relied upon to raise the estoppel. It is alleged that the representation relied upon arises out of the issuing of the certificate and the facts I have stated, not out of anything that the company have stated. Now, in the first instance, Burge & Co. trusted entirely to the broker, who, I think, is liable to them as upon a contract for an undisclosed principal. It was upon the faith of the transfer, which he must be taken to have represented to have come from Coates, that Burge & Co. paid the price of the stock; there was nothing in that to raise an estoppel against the defendants. After they had paid the purchase-money, Burge & Co. induced the company to put the names on the register.

Now it is a practice of companies before registering to make inquiry of the transferor, but they are not bound to do this on behalf of the transferee, they do it for their own benefit; and indeed if the transferee does not put credit in the broker he can himself make inquiry of the transferor. All the facts which caused Burge & Co. to be put upon the register and entitled them to a certificate are as much known to them as to the defendants, and some of them are more within their knowledge than the company's. They know, for instance, what the contract with the broker was, and it is quite as much their duty to make inquiries as it is the company's. All the company do is to put the names on the register, which act of the transferor, if valid, makes Burge &

Co. holders of the stock, but the company do this on the statement of Burge & Co. The certificate is merely a statement that the company have accepted Burge & Co. as holders, but does not allege any fact known to the company and not known to Burge & Co. The only use of it is for the purpose of making a transfer, or to show the title to the stock. The issuing of it, therefore, does raise an estoppel against the company as between them and a subsequent purchaser, as it is given with the intent that he may act upon it, and is a representation by the company of facts not within his knowledge.

There is, then, no representation made by the defendants to Burge & Co. sufficient to raise the estoppel, and I doubt whether Burge & Co. have made any representation which might estop them as against the company. Even if the company had made such a representation to Burge & Co., they would not be estopped, because the legal position of Burge & Co. has not been altered by it.

If they ever had a remedy against the broker at law they have it still; and I think any remedies they may have had under the rules of the stock exchange they have still. It has been said that they have been put to rest, and prevented from pursuing any remedy they had, but this is not enough, unless they have been damaged. I can understand that such delay, if it caused damage, would make a difference; for example, if the broker had in the meantime stopped payment, according to *Knights* v. *Wiffen*, I think they might recover, and I do not disagree with the decision in that case; but that case does not affect the present, as here the plaintiffs have suffered no damage. I think this a very important case, and have therefore given my judgment at some length. I express no opinion upon the second action.

Cotton, L. J.—I think this judgment cannot be supported. The action arose in this manner: The plaintiffs claim to be entitled to be treated as holders of stock, and the company denies their right. Now, on these facts alone, independent of estoppel, the plaintiffs have no right of action, because the transfer to them was a forged one, and they were not owners of the stock at all, which still remains vested in Coates.

Now, as to estoppel, the question is whether or no the plaintiffs have any right, and we may treat the case as if Burge & Co. were the only plaintiffs.

I object to the phrase, title by estoppel, and prefer to call it

right by estoppel, which is this, that when A. makes a statement to B., and B. acts upon the faith of that statement, and that statement is such that if it represented an existing state of facts, B. would have a right of action against A., in such an action A. is estopped from denying that the facts are as he has represented, and must be treated as admitting the truth of his statement. It is under this doctrine that Burge & Co. claim to be entitled to bring this action against the company. The two cases referred to, the *Bahia case* and *Hart* v. *The Frontino Co.*, are different from the present. Here Burge & Co., or some one on their behalf, took to the defendants a document purporting to be a transfer from Coates, but in reality a forged one; the company gave a certificate to the holder, and the question is whether the giving of this certificate is such a representation by the company as to estop them from denying it as against Burge & Co. In the *Bahia case* the plaintiffs were not in the position of Burge & Co., but of a purchaser from the nominee of Burge & Co., who had paid money on the faith of the certificate. Now that was a representation by the company that the transferor was the owner of the shares, and the company was held to be estopped as against the subsequent purchaser from saying he was not. In the present case, Burge & Co. say that Coates was the holder, and that the company having registered the alleged transfer from him and given the certificate, are estopped from denying the truth of the transfer.

But Burge & Co. have an equal chance of knowing how the transfer was effected, and the case really turns upon the question whether, as was argued by Mr. *Benjamin*, the company were under a duty towards Burge & Co. to make inquiry before issuing the certificate. The only duty arises from this is, that if the company were to act on a forged transfer they would be liable, and that, whether they made inquiry or not; but this is not a duty towards the alleged transferee, it is a duty cast upon directors for the sake of the company, and no duty towards the real holder of the stock, who is alleged to transfer, because if the company act upon a forged document they would be liable to him, and might be to other persons. The company made no representation of any facts to Burge & Co., and I say nothing, therefore, as to whether Burge & Co. acted in faith of any such representation.

The main ground of the judgment of Mr. Justice Lindley, was that Simm & Ingelow had a good title by estoppel, and that it still remains.

No doubt the company would be estopped as against them from denying that Spurling & Skinner were holders of the stock, but it seems to me there is some confusion when it is argued that this amounted to a real title by estoppel in Simm & Ingelow, which therefore passed from them to their *cestui que trust*.

Estoppel can only create a real title in a matter of transfer in such a case as where a man who has a title grants a lease, and having subsequently obtained a good title, he is estopped from denying the lease which then becomes a good title by estoppel; so in an action for conversion of goods, on the ground that the property in them had passed to the vendor of the plaintiff, as in *Knights* v. *Wiffen*, an admission by the defendant will be effected for the purpose of that act to pass the property in the goods. Here we are dealing with stock that cannot be transferred except in one way, and the company can give no title by any admission. All that can be gained by estoppel, except by the owner, is a right of action against the company, founded upon the truth of the fact stated by the company, and in this way if Simm & Ingelow had produced their certificate and sold in the market, the purchaser would have had a right of estoppel against the company, not as purchaser from Simm & Ingelow, but as having acted upon the statement made by the company, which would have created a fresh right in him against them. Burge & Co. knew all the facts, and are thrown back upon their original title, and cannot indirectly get any right by estoppel through Simm & Ingelow.

I give no opinion upon the question raised in the second action.

Appeal allowed. Judgment reversed in the first action, and to stand in the second action.

The American cases fully settle the general principle suggested in this case, viz., that a corporation which has accepted and acted upon a forged transfer of its shares, and issued a new certificate, which a *bona fide* purchaser *subsequently* buys, is liable to such purchaser, either by way of estoppel or otherwise, for the value of his shares. He buys upon the faith of their certificate, not upon the faith of the forged transfer; and in such cases he has as good a claim as one who buys directly of a corporation, stock which is fraudulently issued by its authorized officers; as was held in the well-known *Schuyler frauds*. Whereas it by no means follows, that the party who buys a forged transfer of shares, and upon taking it to the corporation procures from it a new certificate to himself, has any remedy against the corporation, if the transfer afterwards proves illegal; the corporation cannot be estopped merely because it has issued a certificate to him. This was the precise point involved in our principal case, and was no doubt correctly decided.

In all such cases the buyer takes his

title, whatever it be, from the former owner and vendor of the stock, and not from the corporation; the latter is only the conduit or channel through which the title passes, and neither the company nor the officers assume any responsibility for the vendor's title. See *Hildyard* v. *South Sea Co.*, 2 P. Wms. 76; *Ward* v. *Central Railroad Co.*, 37 Geo. 515.

But suppose a person had actually bargained for, or agreed to buy, the stock upon the faith of a forged transfer, but did not pay his money for it, until the forger had procured a new certificate from the corporation to himself, which he delivers to the purchaser, who thereupon pays for it; what then, has he any remedy against the corporation or not?

One of the best considered of the recent cases on this subject was that of *Pratt* v. *Machinists' National Bank*, 123 Mass. 110 (1877). The plaintiff there was the owner of shares in the defendant corporation, the certificate of which was stolen from her house, and delivered by the thief, with a forged transfer in blank thereon, in her name, to Field & Co., brokers, for sale. They employed Hawes & Henshaw, stock auctioneers, to sell the same by auction, and they sold to one Dean. Field & Co. then sent the plaintiff's certificate of stock, with the forged transfer thereon filled up to Hawes & Henshaw, and asking for a new certificate to issue to them, which was done by the company. Hawes & Henshaw then sent back this new certificate to the company, with a transfer thereon to said Dean, the purchaser at auction, and the company issued to him a new certificate of the shares, all parties, except the forger, acting in good faith. The forgery being then discovered, the plaintiff brought her bill in equity against the company, *and also against Dean*, the purchaser, asking for a decree, that Dean surrender his certificate to the company and that they be ordered to issue a new certificate for the shares and pay her the intervening dividends, &c., and upon the question whether the plaintiff was entitled to the relief prayed for in her bill, the court, GRAY, C. J., said, "It is quite clear the plaintiff could not be deprived of her stock without her consent, or negligence on her part, and the power of attorney in her name being forged, she may maintain this bill to compel the corporation to issue a certificate to her for her shares, and to pay the dividends thereon: *Ashby* v. *Blackwell*, 2 Eden 299; s. c. Ambl. 503; *Sloman* v. *Bank of England*, 14 Sim. 475; *Midland Railway* v. *Taylor*, 8 H. L. C. 751; *Pollock* v. *National Bank*, 3 Seld. 274; *Sewall* v. *Boston Water-power Co.*, 4 Allen 277."

But upon the other question raised by the bill, whether the defendant Dean, should be ordered to reconvey the shares, or surrender his certificate, the court took a different view, saying: "The individual defendant was a purchaser in good faith, for full consideration, without knowledge or notice of the plaintiff's title, or of the forgery, and does not hold the certificate which she had. The immediate transfer to him was made by Hawes & Henshaw, who then held a new certificate of stock; and the corporation, upon surrender of that certificate, issued to him another one. His rights against the corporation depend upon the effect of *this certificate;* the plaintiff is clearly entitled to no decree against him: *Salisbury Mills* v. *Townsend*, 109 Mass. 115; *Lowry* v. *Commercial Bank*, Taney 310; *Bank* v. *Lannier*, 11 Wall. 369; *In re Bahia & San Francisco Railway Co.*, L. R., 3 Q. B. 584.

If he had claimed under a transfer which he knew, or was bound to know, to be forged, or invalid, a different case would be presented: *Cottam* v. *Eastern Counties Railway*, 1 Johns. & Hem. 243; *Johnston* v. *Renton*, L. R., 9 Eq. 181; *Tayler* v. *Great Indian Peninsula Railway*, 4 DeG. & J. 559; *Denny* v. *Lyon*, 38 Penn. St. 98.

It had been contended at the argument upon the authority of *Ashby* v. *Blackwell*,

above cited, that the decree should order the corporation to repay to the individual defendant Dean, the sum that he had paid for the stock, and he be ordered to surrender his certificate, so that the right of the defendant to the stock could be determined in this suit; but the court said that in *Ashby* v. *Blackwell*, all parties submitted to the decision of the court as the only question whether the purchaser or the company should bear the loss; "But when, as in this case, the relief given to the plaintiff does not require or involve the decision of any question between the co-defendants, the court does not, and cannot, unless by consent, decide such a question, so as to bind the co-defendants as against each other, but leaves it to be settled in a proper suit between them: *Cottingham* v. *Shrewsbury*, 3 Hare 627, 638; *Fletcher* v. *Green*, 33 Beav. 426; *Carlton* v. *Jackson*, 121 Mass. 592, 597." The decree was therefore entered for the plaintiff against the corporation, and the bill dismissed as to the individual defendant Dean, but without prejudice to any question, at law or in equity, between the co-defendants. The corporation then, apparently complied with this decree, and issued a new certificate to the plaintiff of her stock, leaving Dean the purchaser, also the owner of the same number of shares, whereby the capital stock was increased beyond the legal amount. The company then brought a bill in equity against Field & Co., Hawes & Henshaw and Dean, praying that Hawes & Henshaw might be ordered to repay to Dean the amount he had paid them for the stock, and that he might be ordered to reconvey the stock to the corporation, so that the corporation should not have outstanding any more shares than allowed by law; but the bill was dismissed for want of jurisdiction, on the ground that Dean could not be ordered to return his certificate, because he purchased the shares in good faith and for valuable consideration, and the certificate issued to him is as against the corporation conclusive evidence of his title. The corporation has no right to compel him rather than any other stockholder to give up his certificate, and thereby assume the responsibility of its own illegal act in issuing a greater number of shares than the law authorized. And as Dean was not bound to surrender his certificate, he had no claim to be repaid his money, either as against Hawes & Henshaw, or Field & Co.

Whether the corporation had any claim against Field & Co., by reason of having presented to them a forged power of attorney upon which it had issued new certificates, the court gave no opinion; but if they were liable to the corporation in any form, an adequate remedy existed against them alone, by an action at law: *Machinists' National Bank* v. *Field & Others*, 126 Mass. 345 (1879).

If the corporation had any remedy against Field, it would seem to be upon his implied warranty that the forged transfer was genuine, as had been held in other cases.

Upon the question involved in the first case whether the defendant Dean, the purchaser of the stock in good faith was really liable to the plaintiff from whom the stock had been obtained by forgery, it was not thought necessary to decide in that case, because the plaintiff had an adequate and complete relief against the corporation itself; but it seems that if she had at first brought her bill against Dean solely, he could have been compelled to have restored the stock to her, as never having legally parted with it, leaving him to his remedy over, if any, against the corporation. This was the course pursued in *Weaver* v. *Barden*, 3 Lans. 338, and 49 N. Y. 286; while in *Monk* v. *Graham*, 8 Mod. 9, even an action at law (trover), was maintained by the rightful owner against a *bona fide* purchaser under similar circumstances.

EDMUND H. BENNETT.